

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2016

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P. No.20210 of 2016

&

W.M.P.No.17383 of 2016

1.M.Gopikrishnan

2.M.Ganesh

..Petitioners

Vs.

1.The Executive Engineer,
[O & M] - C.E.D.C South - TANGEDCO
Tamil Nadu Electricity Generation &
Distribution Co., K.K.Nagar,
Chennai - 600 078.

2.The Assistant Engineer,
[O & M] - C.E.D.C South - TANGEDCO
Tamil Nadu Electricity Generation &
Distribution Co., Saligrammam,
Chennai - 600 093.

3.The Chairman,
Electricity Board, Anna Salai,
Chennai - 600 002.

..Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to cancel the demand and claim made in the accounts in service connection Nos.278-004-562 and 278-004-563 w.e.f. July 2013 to till date claiming minimum charges under the commercial tariff on the file of the Assistant Engineer O & M/CEDC/SOUTH Tamil Nadu Electricity Board, Saligrammam, Chennai - 600 093 the II Respondent herein/consequently forbear the respondents from charging, levying, claiming, demanding and collecting the minimum charges under commercial tariff together with late fee charges and penalty in respect of the aforesaid service connection Nos.278-004-562 and 278-004-563.

For Petitioners : Mr.S.R.Sundaram

For Respondents : Mr.S.K.Raameshuwar

Standing Counsel for TNEB

O R D E R

The petitioners are having Electricity Service Connection Nos.09-278-004-304, 09-278-004-279 and 09-278-004-280 in the name of their mother for the past 43 years. Subsequently, in February 2014, Service Connection No.09-278-004-280 was surrendered and a representation was given to the Assistant Engineer i.e. the second respondent to transfer the existing Service Connection Nos.09-278-004-304, 09-278-004-279 in the name of the petitioners. Accordingly, the second respondent transferred the Service Connection in the name of the petitioners and gave New Consumer Nos.278-004-562 and 278-004-563 respectively.

2.In the month of June 2014, the petitioners received a claim towards arrears from the second respondent demanding a sum of Rs.34,749/- in respect of Service Connection No.278-004-562 and a sum of Rs.25,425/- in respect of other Service Connection No.278-004-563 with effect from July 2013 till January 2014. It was pointed out that till the aforesaid period, the two Service Connections were given under the Domestic Tariff only and as there was no consumption of the electricity due to demolition of the house and except paying the minimum current charges, no extra amount is to be paid by the petitioners from February 2014 onwards. Moreover, the construction activity has not been commenced and there was no electricity consumption and therefore, the petitioners gave a representation on 12.08.2014 to reverse the charges claimed and demanded with effect from July 2013 to till January 2014. Challenging the demand made as arrears, the petitioners have come before this Court.

3.Heard Mr.S.R.Sundaram, learned counsel appearing for the petitioner and Mr.S.K.Raameshuwar, learned Standing Counsel appearing for the Electricity Board.

4.Mr.S.K.Raameshuwar, learned Standing Counsel appearing for the Electricity Board would submit that if the purpose of electricity sought to be used for construction, Temporary Supply Tariff-VI alone will be applicable and not the Domestic Tariff. Admittedly, in this case, the petitioners have applied for Temporary Electricity Connection as sought for name change and thereafter, intended to make construction from February 2014 onwards and therefore, taking into consideration the purpose of Electricity Connection, namely, construction, the second respondent calculated the charges as per Tariff-VI and demanded the arrears.

5.Mr.S.R.Sundaram, learned counsel appearing for the petitioners would submit that once electricity connection is given for the purpose of construction, Tariff-VI alone is applicable. However, the respondents cannot retrospectively claim to apply the Tariff from July 2013 to January 2014 as the

petitioners intimated the respondents regarding the construction only in the month of February 2014 and therefore, their demand applying Tariff-VI from July 2013 to January 2014 is liable to be set aside.

6.Considering the submissions made on either side, this Court sets aside the demand and claim made in the accounts in service connection Nos.278-004-562 and 278-004-563, however, the demand in respect of period, namely, February 2014 onwards, is as per law. To calculate the amount comprehensively, the matter is remanded to the second respondent for fresh consideration and the second respondent shall decide the issue in the light of the order passed by this Court, within a period of two weeks from the date of receipt of a copy of this order. However, as a pre-condition for such an exercise, the petitioners are directed to pay a sum of Rs.30,000/-. It is made clear that only after depositing the said amount of Rs.30,000/-, the period of two weeks will commence. The said deposit is without prejudice to the rights of the parties. In case, the demand is less than Rs.30,000/-, the excess amount has to be adjusted in the future bill or anything has to be paid in excess, the petitioners shall pay the said amount. On depositing a sum of Rs.30,000/-, the second respondent shall immediately provide reconnection of electricity service.

7.With the above directions, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.
sri

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

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+ 1 cc to Mr.S.R.Sundaram, Advocate Sr 37190

+ 1 cc to Mr.S.K.Raameshuwar, Advocate Sr 37194

KR/6/7/16

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